

# EXHIBIT 1

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PLEASE REFER TO  
OUR FILE NUMBER:  
29218.011

June 24, 2008

**VIA ELECTRONIC MAIL AND U.S. MAIL**

Jon D. Derrevere, Esq.  
Derrevere, Hawkes & Black  
470 Columbia Drive, Bldg B  
West Palm Beach, Florida 33409  
561-684-3222

Re: *Fireman's Fund Insurance Company v. Gerling America Insurance Company*,  
U.S. District Court for the Northern District of California,  
Case No.: 3:07-cv-06302-CRB

Dear Jon:

This letter addresses FFIC's pending motion to compel. FFIC has moved, in part, to compel Gerling to produce all documents related to claims paid by Gerling on behalf of Gencor Industries, Inc. FFIC's main argument to compel is that Gerling has asserted exhaustion of policy limit as an affirmative defense. To attempt to resolve this particular issue prior to the scheduled hearing on August 6, 2008, Gerling is willing to dismiss its affirmative defense on exhaustion.

Enclosed for your review is Gerling's proposed Second Amended Answer to Plaintiff's Fourth Amended Complaint that no longer contains the affirmative defense at issue. Also enclosed is a stipulation for leave for Gerling to file its Second Amended Answer. Please let us know if you agree to this stipulation, and we will file both the stipulation and Second Amended Answer. If you do not agree to the stipulation, we will file a motion for leave to file the Second Amended Answer. If we do not hear from you by Thursday, June 26, 2008, we will assume that you do not agree to the stipulation and will act accordingly.

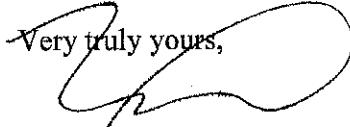
BARGER & WOLEN LLP

Jon D. Derrevere, Esq.

June 24, 2008

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Thank you.

Very truly yours,  
  
TINO X. DO  
For the Firm

Enclosures

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8 Attorneys for Defendant  
9 GERLING AMERICA INSURANCE COMPANY

10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 FIREMAN'S FUND INSURANCE ) CASE NO.: 3:07-cv-06302-CRB  
13 COMPANY, a foreign corporation a/s/o )  
14 BASIC RESOURCES, INC. and GEORGE )  
15 REED, INC., a foreign corporation, )  
16 Plaintiff, )  
17 vs. )  
18 GERLING AMERICA INSURANCE )  
19 COMPANY, a foreign corporation, )  
20 Defendant. )  
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**Honorable Charles R. Breyer**

1 Plaintiff FIREMAN'S FUND INSURANCE COMPANY and Defendant GERLING  
2 AMERICA INSURANCE COMPANY, by and through their counsel, hereby stipulate that  
3 Defendant may file a Second Amended Answer, a copy of which is attached hereto.

4 IT IS SO STIPULATED.

5  
6 Dated: June \_\_, 2008 BARGER & WOLEN LLP

7  
8 By: \_\_\_\_\_  
9 Thomas R. Beer, Esq.  
Tino X. Do, Esq.  
10 Attorneys for Defendant GERLING  
AMERICA INSURANCE COMPANY

11  
12 Dated: June \_\_, 2008 DERREVERE, HAWKES & BLACK

13  
14 By: \_\_\_\_\_  
15 Jon D. Derrevere, Esq.  
16 Attorneys for Plaintiff FIREMAN'S FUND  
17 INSURANCE COMPANY

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JOINT STIPULATION  
3:07-CV-06302-CRB